

1
2
3
4 DAVID ROBERTS,
5 Plaintiff,
6 v.
7 MONTEREY COUNTY JAIL, et al.,
8 Defendants.

9 Case No. 20-cv-06113-SI
10
11

ORDER OF DISMISSAL

Re: Dkt. Nos. 11, 16, 17

12
13 On January 25, 2021, the court ordered plaintiff, David Nathaniel Roberts, to show cause
14 within 28 days why this action should not be dismissed under 28 U.S.C. § 1915(g), which provides
15 that a prisoner may not bring a civil action *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner
16 has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action
17 or appeal in a court of the United States that was dismissed on the grounds that it is frivolous,
18 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under
19 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The order identified five prior
20 dismissals that appeared to count under § 1915(g) and ordered plaintiff to show cause why pauper
21 status should not be denied and the action should not be dismissed. The order further stated that
22 plaintiff also could avoid dismissal by paying the filing fee by the deadline.

23 Plaintiff did not respond to the order to show cause, and the deadline by which to do so has
24 passed.

25 Each of the five earlier dismissals identified in the order to show cause counts as a dismissal
26 for § 1915(g) purposes. Plaintiff has not paid the filing fee, has not shown that any of the prior
27 dismissals could not be counted under § 1915(g), does not appear to have been under imminent
28 danger of serious physical injury at the time he filed this action, and has not otherwise shown cause

1 why this action could not be dismissed. For the foregoing reasons, plaintiff's *in forma pauperis*
2 application is DENIED. Docket Nos. 11, 16, 17. This action is DISMISSED for failure to pay the
3 filing fee. The dismissal is without prejudice to plaintiff asserting his claims in a new complaint for
4 which he pays the full filing fee at the time he files that action.

5 The clerk shall close the file.

6 **IT IS SO ORDERED.**

7 Dated: April 26, 2021



8
9 SUSAN ILLSTON
United States District Judge